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Clinton's New Gun Ban

Administration Set to Trespass on Congressional Authority

"We are taking the law [the 1994 Semi-Auto Gun Ban] and bending it as far as it can to capture a whole new class of guns."

—White House official, *Los Angeles Times*, 10/22/97

This week the Secretary of the Treasury will release a review on whether foreign-made "semi-automatic assault-type rifles" are legally importable under President Clinton's 1994 Semi-Auto Gun Ban and the 1968 "sporting purposes" import standard.

On November 14, 1997, the Administration suspended import permits of all "modified semi-automatic assault-type rifles." All future sales of these previously legal firearms are effectively terminated, pending the Treasury review.

The Administration's import ban appeared motivated by erroneous allegations that importers are exploiting loopholes in the 1994 Semi-Auto Gun Ban. Clinton's own ATF Director John Magaw admits in the *Los Angeles Times* on December 22, 1997, that "the 1989 standard [the most recent modification of the original 1968 'sporting purposes' standard] is even stricter than the 1994 assault weapon ban."

While every firearm sold in the United States *meets or exceeds* the exact standard set forth in Clinton's Semi-Auto Gun Ban, the Administration is now attempting to justify further restrictions — only now ignoring the role of Congress.

1994 Semi-Automatic Gun Ban

"No one should have any illusions about what was accomplished. Assault weapons play a part in only a small percentage of crime. The provision is mainly symbolic; its virtue will be if it turns out to be, as hoped, a **stepping stone to broader gun control.**"

[*Washington Post*, 9/15/94 — after passage of the Semi-Automatic Gun ban]

In September of 1997, Senator Feinstein, original sponsor of the 1994 Semi-Auto Gun Ban, sent a letter to the White House urging the Administration to use its executive authority to rescind the importation permits for certain Israeli semi-automatic firearms: "You have the power to ban the import of all assault weapons, including those that have received federal permits in the past."

The 1994 Semi-Auto Gun ban outlawed any newly manufactured semi-automatic firearm that has a high-capacity detachable magazine and at least two "military appearance" characteristics, regardless of domestic or foreign origin [see text box]. In fact, imported firearms must not only meet the standards of the 1994 gun ban but the even more restrictive "sporting purposes" importation requirements [see section below].

What makes a firearm illegal under the 1994 Semi-Automatic Gun Ban?

Any semi-automatic firearm that has a detachable magazine and at least two of the following characteristics is now illegal:

- "conspicuous" grip
- bayonet mount
- flash suppressor
- folding or telescoping stock
- grenade launcher

Nonetheless, the case is now being made by the White House that the above legal standards are not the only elements of the law. According to the Administration, the overall spirit of the law, regardless of the letter of the law, was to ban all guns that have a "military appearance." Specifically, a legal 1997 Uzi without the proscribed characteristics is now considered to be illegal due to its continued "military appearance." What was legal yesterday is illegal today due only to its continued *military appearance*.

"Sporting Purposes" Standards for Firearm Imports

The 1968 Gun Control Act created a uniform standard for all imported firearms — the so called "sporting purposes" standard. Specifically, the act states that imported firearms must "be generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms . . ."

Shortly after passage of the 1968 Gun Control Act, the Bureau of Alcohol, Tobacco and Firearms (ATF) commissioned a panel to provide guidelines for implementation of the "sporting purposes" test. According to the Congressional Research Service, the only controversy of the time was whether the easily concealed, inexpensive, often low-quality "Saturday Night Special" fit the "sporting purposes" mandate. The panel focused on handgun regulations and *did not* propose criteria for evaluating rifles and shotguns.

The 1968 Gun Control Act states specifically that the act had no intention of "plac[ing] any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity . . ." It was not until 1984 that this open-ended definition was more narrowly applied to only certain sporting activities, such as hunting and organized marksmanship.

In 1984, the "sporting purposes" test was specifically applied to rifles and shotguns. The firearm in question was a South African riot control shotgun. The importer, pursuant to the statute requirements, indicated that the weapon fit "sporting purposes" due to its "suitability for police/combat style competitions." ATF denied the license.

Two years later, a second shotgun application was denied due to the firearm not being "generally recognized as particularly suitable for or readily adaptable to a sporting purpose." Here, ATF clarified that firearms must attain "general recognition as having a sporting purpose" and events must attain "general recognition as being a sport."

The criteria were last modified in 1989. The Bureau of Alcohol, Tobacco and Firearms was ordered to suspend importation of 43 imported semi-automatic firearms *until* a study was completed pertaining to their eligibility for importation under the "sporting use" criteria. Thereafter, the review concluded that not one of the 43 firearms was of sporting use as defined by the Import Restriction section in the 1968 Gun Control Act [18 USC §925(d)(3)].

Still dissatisfied, the White House is now using the "sporting purposes" test to further justify an expanded gun ban. While the letter of the law has not changed, the politics of its interpretation apparently has.

Judiciary's Ranking Member Opposed: This is Congress' Domain

On October 30, 1997, in response to Clinton's move to extend his 1994 Semi-Automatic Gun Ban, Senator Leahy, ranking member on the Judiciary Committee, wrote the President that he "strongly believes that using a Presidential directive to avoid the normal legislative process regarding any changes to the assault weapons ban is the *wrong way to go*."

Since taking office, Clinton has managed to put half of US gun dealers out of business and has eliminated nearly two-thirds of firearm imports. Still disappointed with the pace and direction of gun control policy, the White House is now pursuing a more unilateral gun control agenda — this time through the back door, essentially ignoring the role of Congress in setting gun control policy.

Where is the assault weapon threat?

- In May of 1990, then New Jersey Governor Jim Florio signed into law one of the first comprehensive semi-automatic gun bans.

In response, Deputy Police Chief Joseph Constance of Trenton, New Jersey stated: "Assault weapons are used in an underwhelming .026 of 1 percent of crimes in New Jersey. This means that my officers are more likely to confront an escaped tiger from the local zoo than to confront an assault rifle in the hands of a drug-crazed killer on the streets."

- According to the FBI and various state and local police figures, rifles of any type are used in only 3 percent of all homicides and "assault weapons" under various definitions are used in less than 1 percent of all violent crime.

- Clinton's own Department of Justice, through a grant to the pro-gun control Urban Institute, indicated that "at best, the assault weapons ban can have only a limited effect on total gun murders, because the banned weapons and magazines were never involved in more than a modest fraction of all gun murders."